

REMARKS

This Amendment and Response cancels claims 1, 2, 3, 4, 6, 14, 15, 16, 23, 63, 65, 67 and 68 without prejudice, amends claims 8-11, 17, 19, 24, 25, 28, 34, 64, 66, 69, 71, 72, and 74 and adds new claim 75. With this Amendment and Response, claims 8-13, 17-22, 24-34, 64, 66, and 69-75 are pending in this application.

I. Allowable Subject Matter

The Action states that claims 9, 11-13, 64, 66 and 69-74 are allowed. Applicants have amended the remaining claims to depend from the allowed claims in order to place the application in condition for allowance as follows:

Claim 8 has been rewritten to depend from allowed claim 9. Applicant respectfully submit that it is, therefore, allowable.

Claims 10, 11, 69, 71, 72 and 74 have been rewritten to depend from allowed claim 64. Applicant respectfully submit that these claims are, therefore, allowable. .

Claims 17, 19, 24, 25, 28 and 34 have been rewritten to depend from allowed claim 66. Applicant respectfully submit that these claims are, therefore, allowable. .

II. Changes to Allowable Subject Matter

The Action provided that claims 9, 64 and 66 were allowed. Applicant has added to each of these claims language to provide that "the neck comprises a trachea and an esophagus." This language was added to resolve previously-undiscovered insufficient antecedent basis problems. No new matter has been added and Applicants submit that the changes do not affect the allowability of these claims.

Further, as requested by the Action, the language in line 5 of claim 66 reading “for increasing” has been amended to read “adapted to increase.”

III. 35 U.S.C. § 102 Rejections

The Action rejects claims 65 and 68 as being anticipated by U.S. Patent 3,967,343 to Westervelt. Applicants respectfully traverse this rejection and ask that it be withdrawn. Claims 65 and 68 have been canceled, thereby rendering the Action’s rejection of these claims moot.

IV. 35 U.S.C. § 103 Rejections

The Action rejects claims 2-4, 6, 8, 16-19, 28, 63 and 67 as being unpatentable over U.S. Patent No. 3,571,844 to Stiles in view of U.S. Patent No. 2,512,089 to Cervin. Applicants respectfully traverse these rejections and ask that they be withdrawn. Claims 2-4, 6, 16, 63 and 67 have been canceled, thereby rendering the Action’s rejection of these claims moot. Claim 8 has been amended to depend from allowed claim 9. Claims 17-19 and 28 have been amended to depend from allowed claim 66. Thus, Applicants submit that these claims are in condition for allowance.

The Action rejects claims 20-22 and 34 as being unpatentable over Stiles as modified by Cervin and further in view of U.S. Patent No. 3,967,343 to Westervelt. Applicants respectfully traverse these rejections and ask that they be withdrawn. The amendment of claim 19 has resulted in claims 20-22 being dependent ultimately from allowed claim 66. Further, claim 34 has been amended to depend from allowed claim 66. Thus, Applicants submit that these claims are in condition for allowance.

The Action rejects claims 29-33 as being unpatentable over Stiles as modified by Cervin and further in view of U.S. Patent No. 5,108,345 to Harben. Applicants respectfully traverse these rejections and ask that they be withdrawn. The amendment of claim 28 has resulted in claims 29-33 being dependent ultimately from allowed claim 66. Thus, Applicants submit that these claims are in condition for allowance.

PETITION FOR EXTENSION OF TIME


Applicants petition the Commissioner for Patents for a two-month extension of time, through and including November 8, 2004, to respond to the final Office action mailed June 8, 2004. Enclosed is a check in the amount of \$430 in payment of the fee for a two month time extension.

The Commissioner is authorized to charge any additional fee relating to this filing to Deposit Account No. 11-0855.

CONCLUSION

Applicants respectfully submit that claims 8-13, 17-22, 24-34, 64, 66, and 69-75 are in condition for immediate allowance, and request early notification to that effect.

Respectfully submitted,



Catherine E. Fienning
Reg. No. 54,095

OF COUNSEL:

KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530
Phone: 404.532.6938
General Phone: 404-815-6500